

**SUPERIOR COURT OF CALIFORNIA,
COUNTY OF VENTURA
VENTURA**

MINUTE ORDER

DATE: 11/13/2013

TIME: 09:30:00 AM

DEPT: 21

Judicial Officer Presiding: Tari Cody
CLERK: Martha Lagana
REPORTER/ERM: Lisa Lemus

CASE NO: **56-2011-00408712-CU-CO-VTA**

CASE TITLE: **North Kern Water Storage District vs City of Bakersfield**

CASE CATEGORY: Civil - Unlimited CASE TYPE: Contract - Other

EVENT TYPE: Court Trial (LC)

APPEARANCES

SCOTT K. KUNEY, counsel, present for Plaintiff(s)
DOUGLAS GOSLING, counsel, present for Plaintiff(s)
COLIN PEARCE, counsel, present for Defendant(s)
JOLIE-ANNE S. ANSLEY, counsel, present for Defendant(s)

1st Day of Trial

This being the time set for Court Trial in the above-entitled matter, having been assigned to this department, all parties and counsel appear as noted above and trial commences.

Prior to Court convening, the court met with counsel in chambers.

The Court discloses that it is familiar with water law having worked with Lemieux & Lemieux many years ago and remembers the name "Stetson" as they may have done some work for their clients. The court does not know any names on the witness list.

Counsel state that pursuant to a stipulation signed by Judge Riley, this will be a bifurcated trial with the equitable cause of action to be tried first.

The time estimate for trial is 7 to 10 days.

The Court discusses with counsel, the days court will be in session and the times.

The Court states it has read some of the motions in limine submitted by both sides and is prepared to hear argument.

Plaintiff's motion in limine No. 1 - to exclude evidence relating to City of Bakersfield's third cause of action for rescission is submitted to the Court with argument and is denied without prejudice.

The Court states that all of it's rulings on the Motions in Limine are made without prejudice.

The Court further states to counsel that if they wish a document to be made part of the Court's record, they are to file it with the court's judicial assistant.

Plaintiff's motion in limine No. 2 - to exclude surprise witness, Rudy Valles is submitted to the Court with argument and is reserved for ruling.

Plaintiff's motion in limine No. 3 - to exclude evidence relating to City of Bakersfield's attempts to interpret or construe the meaning of Agreement 76-89 is submitted to the Court with argument and is denied.

Defendant's motion in limine to exclude 2008 draft "Stetson" report is submitted to the Court with argument and is reserved for ruling.

Defendant's motion in limine No. 2 - to exclude testimony and evidence regarding prior sales of miscellaneous water (No. 2) is submitted to the Court without argument and is denied.

Defendant's motion in limine No. 3 - to exclude testimony of Steve Lafond and John Ryan is submitted to the Court without argument and is reserved for ruling.

Defendant's motion in limine No. 4 - to exclude testimony and undisclosed expert reports of Dan Bartel is submitted to the Court with argument and is reserved for ruling.

At 11:31 a.m. Court is in recess.

At 1:34 p.m. Court reconvenes with plaintiff(s), defendant(s) and counsel present as noted above.

The Court states for the record that it has read the trial briefs submitted by the parties.

The Court and counsel discuss stipulations previously reached.

The Court states it's ruling as to Defendant's motion in limine No. 1 as set forth on the record.

Defendant's motion in limine No. 4 - to exclude testimony and undisclosed expert reports of Dan Bartel is submitted to the Court with argument and is denied.

Defendant's motion in limine No. 5 - to exclude testimony and evidence regarding alleged damage to or impacts on North Kern resulting from conclusion of Agreement is submitted to the Court without argument and is reserved for ruling.

Defendant's motion in limine No. 6 - to exclude testimony and evidence regarding settlement discussions and mediation is submitted to the Court with argument and is granted.

Defendant's motion in limine No. 7 - to exclude testimony of Steven Dalke and Scott Hamilton is submitted to the Court without argument and is reserved for ruling.

Defendant's motion in limine No. 8 - to exclude testimony and opinions from North Kern's witnesses or third parties regarding the City of Bakersfield's need and demand for water is submitted to the Court with argument and is reserved for ruling.

Defendant's motion in limine No. 9 - to exclude testimony and evidence regarding priorities and obligations under expired basic term of Agreement is submitted to the Court without argument and is reserved for ruling.

Defendant's motion in limine No. 10 - to exclude testimony of Stephen Johnson is submitted to the Court without argument and is reserved for ruling.

The Court discusses with counsel, the court's procedure on calling witnesses that are on both parties witness list.

At 2:08 pm Court is in recess.

At 2:12 pm Court reconvenes with plaintiff(s), defendant(s) and counsel present as noted above.

At 2:12 pm, Mr. Kuney presents an opening statement on behalf of Plaintiff North Kern Water Storage District.

Opening statement is reserved by defendant, City of Bakersfield.

The Court and counsel discuss the procedure with handling exhibits with witnesses.

The parties agree that the witnesses will be shown copies of exhibits and the originals will be marked by the clerk. The Court will also be provided with copies of the exhibits.

At 2:40 pm, Plaintiff's witness Richard Diamond is sworn and testifies.

Exhibits are identified on a separate list attached.

The following Plaintiff's exhibits are marked for identification: 87, 200, 201, 202, 203 and 204.

At 3:05 p.m. Court is in recess.

At 3:22 p.m. Court reconvenes with plaintiff(s), defendant(s) and counsel present as noted above.

Plaintiff's witness, Richard Diamond examination of direct commences by Mr. Kuney on behalf of Plaintiff.

The following Plaintiff's exhibits are marked for identification: 6, 205, 206, 207, 208, 209, 210, 211, 81, 68, 156, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 12, 13, 14, 15, 16, 17, 18, 19, and 117.

At 4:25 p.m. Court is adjourned until 11/14/2013 at 09:30 AM in Department 21.